

K R A S K I N, L E S S E & C O S S O N, L L C
ATTORNEYS AT LAW
TELECOMMUNICATIONS MANAGEMENT CONSULTANTS

2120 L Street, N.W., Suite 520
Washington, D.C. 20037

Telephone (202) 296-8890
Telecopier (202) 296-8893

June 27, 2003

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VIA COURIER

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: TMP Corp. and TMP Jacksonville, LLC
CC Docket No. 94-102
Request for Further Extension of TTY Requirements

Dear Ms. Dortch:

On June 4, 2002, TMP Corp. and TMP Jacksonville, LLC (collectively the "TMP carriers") submitted a petition seeking waiver of Section 20.18(c) of the Commission's Rules and the June 30, 2002 deadline for compliance with 911 text telephone ("TTY") obligations for digital wireless carriers ("Petition").¹ On June 28, 2002, the Commission granted the Petition and extended the deadline for the TMP carriers to June 30, 2003.²

The TMP carriers, by counsel, hereby request a further extension of time, until June 30, 2004, in which to comply with the TTY Rule. Further extension is warranted due to the fact that the TMP carriers confront circumstances that will render compliance with the June 30, 2003 deadline impossible, due to factors beyond the carriers' control. To further the public interest, the TMP carriers propose a specific deployment schedule to implement a TTY solution in the most efficient and expeditious manner.

¹ 47 C.F.R. § 20.18(c) (the "TTY Rule"); *In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Fourth Report and Order*, CC Docket No. 94-102, FCC 00-436 (rel. Dec. 14, 2000) ("Fourth Report and Order").

² See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order, DA 02-1540 (rel. June 28, 2002) ("Order") at paras. 6 & 17. In its Order, the Commission granted the TMP carriers' request for a one-year extension. *Id.* The Appendix to the decision, however, erroneously stated that the extension was granted only through January 31, 2003. See *id.* app. A; *TMP Corp. TTY Status Report* (October 15, 2002). Commission staff confirmed that the June 30, 2003 date is the correct extension deadline.

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The TMP carriers have recently experienced changes in key company personnel.³ The negotiation process for a new switch vendor has also complicated the process of finalizing their plans for TTY compliance. As referenced in its Petition and quarterly filings, the carriers have been negotiating with their infrastructure provider, Airnet, regarding the cost for the TMP carriers to implement TTY compliant software once it becomes commercially available.⁴ After the April 2003 Quarterly Report was submitted, however, it became evident that Airnet would not have an economically feasible TTY solution generally available by the June 30, 2003 deadline. Accordingly, the TMP carriers began investigating the possibility of replacing the Tecore switch used by Airnet with one that is TTY-compliant. Although negotiations with other vendors were initiated in late April, the negotiations could not be disclosed due to the possibility that the on-going relationship with Airnet might be jeopardized. Only within the last few days have the negotiations reached the level that the carriers are able to disclose their plan to replace the switch.

I. Background

In its Petition, the TMP carriers reported that its infrastructure provider, Airnet, would not have a technical solution generally available by the June 30, 2002 deadline. Based upon the representations made by Airnet that the vendor would have a solution generally available by the fourth quarter 2002, the TMP carriers requested an extension until June 30, 2003.⁵

Airnet, however, did not meet this deployment deadline and, to TMP's knowledge, has yet to have a "First Office Application" of the software it intends to use for TTY compliance.⁶ As referenced in the TMP carriers' quarterly reports, Airnet informed the carriers, "it seems like the price to value is just not there for the small to medium service providers."⁷ Accordingly, to satisfy the requirements of the TTY Rule and other Commission mandates, the TMP carriers are in the process of negotiating with other switch manufacturers to replace the Tecore switch used by Airnet with one that is TTY-compliant. The TMP carriers anticipate that it will take a year, until June 30, 2004, to finalize negotiations, purchase, install and test the replacement switch.

³ During the months of May and June, two key employees of the TMP carriers - the President and the regulatory manager - have retired. Accordingly, long-term decisions such as replacement of the switch have required the involvement of other employees who have only recently begun to take over these roles.

⁴ See, e.g. TMP Corp. TTY Status Report filed April 15, 2003 ("April 2003 Quarterly Report") ("The cost for TMP to implement the software once it becomes generally available remains above \$190,000").

⁵ Petition at 5. See Order at 3 (FCC noting that the TMP carriers' request for an additional six months after the projected fourth quarter deployment date is "consistent with the six-month time frame the Commission established in the *Fourth Report and Order* for carriers to integrate, test, and deploy the technology in their systems").

⁶ See April 2003 Quarterly Report.

⁷ *Id.*


II. Further Extension is Justified

As demonstrated in the Petition, "it would be inequitable, unduly burdensome and contrary to the public interest to require these small, rural carriers to meet a deadline that, given the existing network architecture, is technically impossible."⁸ The Commission has found previously that in situations where it was not technically feasible to transmit 911 calls through TTY devices, the compliance deadline must be extended.⁹ In accordance with this precedent, the Commission should continue to extend its deadline for compliance for carriers, such as the TMP carriers, where technical solutions have yet to be fully developed and tested.

Further, grant of the additional extension would be in the public interest. The TMP carriers are not requesting a blanket waiver of the Commission's TTY Rule but rather requesting waiver only to the extent that the non-compliant switch can be replaced with one that is TTY-compatible. During the temporary extension period, the TMP carriers would continue to submit quarterly progress reports to keep the Commission apprised of progress towards compliance. The TMP carriers anticipate providing the Commission with information regarding the choice of switch vendor and a definitive timeline for deployment of the TTY compliant switch by the July 15, 2003 reporting deadline.

Based on the foregoing, TMP respectfully requests that the Commission grant this request for extension until June 30, 2004.

Respectfully submitted,


Sylvia Lesse
John Kuykendall

Attachment

cc: Blaise Scinto, Chief, Policy Division, Wireless Telecommunications Bureau
Pam Gregory, Consumer & Governmental Affairs Bureau
Mindy Littell, Policy Division, Wireless Telecommunications Bureau
Qualex International

⁸ Petition at 3.

⁹ See Petition at 4 (citing *In the Matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Memorandum Opinion and Order*, 12 FCC Rcd 22665, 22693 (1997)); Order at para. 17 (Granting waiver requests of small, rural petitioners and finding that "despite their efforts to obtain the software and hardware they require from vendors well in advance of the deadline, these small carriers have encountered unexpected delays in implementing digital-TTY capability in their systems and the limited waivers are reasonable under the circumstances").

DECLARATION OF TREY LUTRICK

I, Trey Lutrick, CEO of TMP Corp. and TMP Jacksonville, LLC, (the "TMP carriers") do hereby declare under penalty of perjury that I have read the foregoing "Request for Further Extension of TTY Requirements" and that the information contained therein that pertains to the TMP carriers is true and accurate, to the best of my knowledge, information and belief.


[Name]

Dated: 6/26/03